



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Pannesma Co. Ltd.

**File:** B-251688

**Date:** April 19, 1993

James R. Gridley for the protester.  
Gregory Petkoff, Esq., Department of the Air Force, for the agency.  
Mary G. Curcio, Esq., Richard P. Burkard, Esq., and John G. Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest alleging that agency improperly evaluated protester's technical proposal by not assigning highest technical rating to proposal is denied where record shows that even though the agency found that the protester's proposal did not have any weaknesses, agency reasonably found that the proposal was not exceptional and thus did not warrant the highest rating.
2. Protest alleging improper evaluation of protester's past performance is denied where record supports the reasonableness of the agency's determination based on its performance under the predecessor contract.
3. Selection of awardee on the basis of its overall technical superiority, notwithstanding its higher cost, is unobjectionable where solicitation provided that technical considerations were more important than cost and the agency reasonably concluded that the technical superiority of the awardee's proposal was worth the extra cost.

### DECISION

Pannesma Co., Ltd. protests the award of a contract to Saudi Services and Operating Co., Ltd. under request for proposals (RFP) No. F33600-92-R-0051, issued by the Department of the Air Force for support services for Department of Defense personnel in Saudi Arabia. Pannesma challenges the agency evaluation of its technical proposal and past performance, and it asserts that the Air Force failed to award the

contract on the basis of the best value to the government as required by the RFP.<sup>1</sup>

We deny the protest.

#### BACKGROUND

The RFP, which was issued on April 6, 1992, sought proposals for a cost-type contract for services which included, among other things, financial operations, disbursing and purchasing, housing and facility maintenance, food, and communication services. The protester's parent company, Nesma Co. Ltd., is the incumbent contractor for these services.

The RFP provided that proposals would be evaluated in three areas listed in descending order of importance: (1) management; (2) operational/technical; and (3) cost. The management and operational/technical areas formed the basis for the technical evaluation, and each included a number of items which would be evaluated. For example, under the management area, the RFP listed items such as personnel management, financial management, and property control, while items under the operational/technical area included transportation services, food services, and facilities maintenance. Cost was to be evaluated for completeness, realism, and reasonableness.

The RFP provided that the selection decision would include evaluation of general considerations as well as the result of the evaluations of technical and cost proposals. Examples of general considerations include "past performance, proposed contract terms and conditions, and results of Preaward Surveys. . . ." In this regard, the RFP provided that a performance risk assessment would be conducted based on the offeror's relevant present and past performance.

The Air Force received proposals from eight offerors by the June 22 closing date. After the initial evaluation, six offerors, including Pannesma and Saudi Services, were

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<sup>1</sup>Initially, Pannesma also complained that the Air Force overlooked information in Pannesma's proposal and thus unfairly rated the proposal. In the report submitted in response to the protest, the Air Force specifically addressed this issue. In the comments submitted in response to the report, Pannesma did not address the agency's response or otherwise raise this issue again. Accordingly, we consider it abandoned and will not consider it on the merits. See Information Ventures, Inc., B-247479, May 22, 1992, 92-1 CPD ¶ 467.

included in the competitive range and were sent clarification requests and deficiency reports with responses due by August 24. The Air Force reviewed the responses and requested the six offerors to submit best and final offers (BAFO) by November 19.

After reviewing the BAFOs, the agency evaluators assigned Saudi Services' technical proposal a rating of "blue/exceptional," while the protester's was considered "green/acceptable."<sup>2</sup> Color ratings also were assigned to each technical evaluation item under the two technical areas of management and operational/technical and formed the basis for the overall rating set forth above. Neither the protester nor the awardee submitted the low-cost BAFO. Pannesma's cost estimate of \$62,159,216 was approximately 2 percent below Saudi Services' estimate of \$63,522,872.

Concerning the performance risk assessment, the agency evaluated the offerors under the following areas: (1) management risk; (2) operational/technical risk; (3) cost risk; and (4) performance risk. Each of these assessments was based upon past or current performance, preaward surveys, and financial data. With respect to the protester, the performance of Nesma under the predecessor contract was evaluated. An evaluation of that performance concluded that the firm's performance on the contract had been marginal in the areas of planning, requiring it to over-use overtime. The evaluation also noted that adherence to quality control had been "marginal to poor." Additionally, the performance evaluation report stated that the contractor did not provide adequate staffing under the contract to accomplish the required tasks and that on several occasions Nesma used improper food handling procedures. The evaluation also noted that the protester's parent company is undergoing a "reorganization" and could withdraw or limit financial support to Pannesma. The evaluators concluded that the management, operational/technical, and cost risks associated with Pannesma were "moderate" and evaluated its performance risk as "high significant doubt." Saudi Services' performance risk was considered to be "low" to "moderate."

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<sup>2</sup>The ratings used were: blue/exceptional-exceeds specific performance or capability in a beneficial way to the Air Force, high probability of success, no significant weaknesses; green/acceptable-meets standards, good probability of success, weaknesses can be readily corrected; yellow/marginal-fails to meet evaluation standards, low probability of satisfying the requirement, has significant deficiencies but correctable; and red/unacceptable-fails to meet a minimum requirement, needs a major revision to the proposal to make it acceptable.

After reviewing the BAFOS, the source selection authority (SSA) considered the strengths, weaknesses, and risks of each proposal, the resulting color ratings, cost, and the risk analyses, and concluded that Saudi Services' proposal, which was rated exceptional when measured against the RFP criteria, represented the best value to the government. Accordingly, the contract was awarded to Saudi Services on December 8. This protest followed.

#### EVALUATION OF PANNESMA'S TECHNICAL PROPOSAL

Pannesma challenges the evaluation of its own proposal on various grounds. The protester argues that since the Air Force found no weaknesses in its proposal as revised it was entitled to receive the highest technical rating of blue under each technical evaluation factor. In this regard, Pannesma contends that while a proposal with no significant weaknesses is associated with a blue rating, in 8 out of 10 factors where the evaluators concluded that Pannesma's proposal had no significant weaknesses, the proposal was rated only green.

The determination of the relative merits of proposals is primarily a matter of agency discretion which we will not disturb unless it is shown to be without a reasonable basis or inconsistent with the evaluation criteria listed in the RFP. Pemco Aeroplex Inc., B-239672.5, Apr. 12, 1991, 91-1 CPD ¶ 367. The protester's disagreement with the agency does not render an evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450.

The fact alone that Pannesma adequately responded to the agency's deficiency reports either during discussions or in proposal revisions does not automatically mean that the proposal should have received a higher rating than acceptable or green. Nor does it follow that the Air Force was required to assign a rating of blue for the factors for which the evaluation narrative states that the proposal had no significant weaknesses since a blue rating is not the result of that conclusion alone. Rather, a blue rating also requires a conclusion that the proposal exceeds the specified performance or capability in a beneficial way to the Air Force and has a high probability of satisfying the requirements of the RFP. Pannesma has not argued that its proposal meets these criteria.

Moreover, the record supports a conclusion that Pannesma's proposal was adequate but did not warrant a rating of blue or exceptional. One evaluator noted, for example, that "no detail or new innovative procedures are presented" and that the proposal demonstrated a "lack of interest in presenting material." Another commented that the protester submitted a "sloppy proposal" which reflects a "casual approach to this

RFP." We thus have no basis upon which to question the agency's assessment of Pannesma's proposal.<sup>3</sup>

#### PAST PERFORMANCE/RISK ASSESSMENT

Next, Pannesma disputes the agency's evaluation of its past performance. The evaluation of past performance was conducted as part of the agency's risk assessment. The protester argues principally that the evaluation of past performance should not have been limited to its performance as incumbent under the predecessor contract. It contends that the agency should have sought information about Pannesma's performance under other contracts, which it listed in its proposal.

The RFP instructions under past performance stated that offerors were to submit "any information that you consider relevant in demonstrating your ability to perform the proposed effort." Concerning references to previous contracts, the RFP stated that "[o]fferors are required to explain what aspects of the contract are deemed relevant to the proposed effort." The RFP also advised that in evaluating past performance the agency would use both data provided by the offeror and data obtained from other sources.

Here, Pannesma in its proposal provided a list of previous contracts other than the incumbent contract for these services and did not explain what aspects of these contracts were deemed relevant to the current contract with the Air Force. While the proposal states that the listed contracts are either similar to this effort or similar to segments of this effort, there is no further explanation, and the contracts listed are not with the government. Thus, the evaluators could not readily ascertain their relevance. Moreover, even assuming that successful performance under the listed contracts were some indicia of the firm's ability to perform the solicited services, the protester does not argue, nor do we see how, successful performance under those contracts would negate the agency's conclusions about the firm's performance under the predecessor contract. In our view, the contractor's performance as incumbent is the most

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<sup>3</sup>Pannesma asserts that the awardee did not offer to provide vehicles. While the protester suggests that, as a result, the agency's evaluation of that firm's proposal was flawed, there is simply no requirement in the solicitation that offerors provide vehicles. To the extent that the protester is complaining that the awardee did not offer to provide transportation for his employees, as required by the RFP, the awardee's proposal did in fact comply with this requirement.

relevant data available to the agency. See Inlingua Schools of Language, B-229784, Apr. 5, 1988, 88-1 CPD ¶ 340. This is particularly so given the fact that Pannesma stated in its proposal that although the company name has changed, "the personnel and operations will remain for the most part intact from our operations on the [predecessor] contract."  
.. ."

Concerning the performance under the incumbent contract, we think, based upon the record before us, that it was reasonable for the Air Force to conclude that Nesma's performance had been marginal. In this regard, the agency points to specific performance problems such as vacancies in staffing, failure to timely submit a quality control plan, and instances of improper food handling. In response, the protester attempts to deflect blame for these problems and asserts that no formal action was taken as a result of them. For example, concerning staffing, the protester states that there is "no documented record of concern due to an extreme vacant manning." In addition, it states that "considering the demographics and Saudi Arabian restrictions on in-country transfers, Nesma maintained a much higher-filled position ratio than similar projects in size."

An agency's evaluation of past performance may be based upon the procuring agency's reasonable perception of inadequate prior performance, even where the contractor disputes the agency's interpretation of the facts. See Firm Otto Einhaupl, B-241553 et al., Feb. 20, 1991, 91-1 CPD ¶ 192. This record affords us no basis upon which to object to the Air Force's conclusion regarding Nesma's past performance. While Pannesma offers explanations and interpretations of the record that provide a more favorable picture of Nesma's activities than drawn by the agency, this does not alter the fact that there was sufficient evidence for the agency to conclude that the firm had a series of performance problems under the prior contract.<sup>4</sup> See id.

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<sup>4</sup>Pannesma also questions the statement in the risk assessment that Nesma can limit or withdraw financial support from Pannesma. The protester argues that it submitted a letter defining the financial support arrangement of Pannesma and Nesma. The record shows, however, that this letter was specifically considered by the agency during the risk assessment process. Based on our review of the record, we have no basis to conclude that the agency's conclusion that Nesma could limit or withdraw support was unreasonable. In any event, the primary reason that the agency evaluated the protester's performance risk as "high significant doubt" is the agency's conclusion that the firm's performance had been marginal. The statement

(continued...)

## SELECTION DECISION

Pannesma also complains that the agency did not award the contract on the basis stated in the solicitation--the best value to the government--because Pannesma offered a proposal that is technically acceptable, but lower in cost, than the proposal offered by Saudi.

Agency officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Cost/technical tradeoffs may be made subject only to the test of rationality and consistency with the established evaluation factors. Purvis Sys. Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132. Award may be made to a higher-rated, higher-cost offeror where the decision is consistent with the evaluation factors and the agency reasonably determines that the technical superiority of the higher-cost offer outweighs the cost difference. Sabreliner Corp., B-242023; B-242023.2, Mar 25, 1991, 91-1 CPD ¶ 326.

Here, we find that the Air Force properly chose Saudi Service's higher-cost proposal for award. The SSA specifically found that Saudi Services' proposal represented the best overall value to the government. He based this decision on the evaluators' conclusion that Saudi Services' proposal received the highest rating for technical capability, the most important evaluation criteria. Saudi Services received 4 blue and 5 green ratings in the management area and 10 blue and 2 green ratings in the operational/technical area. The SSA noted that: (1) Saudi Services' proposal exceeded specific performance standards with a high probability of success; (2) the firm identified a highly qualified site management team; and (3) it has a state of the art integrated work management system to monitor life cycle maintenance cost and an excellent insight in operations and performance in Saudi Arabia. In addition, the SSA concluded that Saudi Services demonstrated its ability to perform the contract with low risk to the government.

Pannesma, on the other hand, received no blue ratings and 9 green ratings in the management area and 2 blue and 10 green ratings in the operational/technical area. In light of this technical evaluation, the firm's marginal past performance as incumbent, the fact that under the RFP

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<sup>4</sup>(...continued)

concerning the possibility of Nesma limiting or withdrawing support appears to be given little weight in the ultimate risk assessment and in the final selection decision.

technical factors were weighted more heavily than cost, and the relatively small difference in cost between the two firms--the awardee was about 2 percent higher--we have no basis to conclude that the award decision was inconsistent with the RFP best value criteria.

The protest is denied.



James F. Hinchman  
General Counsel

